

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES ABBOTT,

Plaintiff,

Case No. 14-cv-11778

Hon. Matthew F. Leitman

v.

UNICARE, et al.,

Defendants.

**ORDER DISMISSING PLAINTIFF'S CLAIMS AGAINST UNICARE FOR
FAILURE TO PROSECUTE AND FAILURE TO COMPLY WITH THE
COURT'S ORDER TO SHOW CAUSE (ECF #13)**

Plaintiff James Abbott ("Plaintiff") filed this action against Defendants UniCare and the Ford Motor Company Salaried Disability Plan (the "Ford Plan") on May 2, 2014. (*See* the "Complaint," ECF #1.) The Ford Plan served an Answer to the Complaint on July 23, 2014. (*See* "Ford's Answer," ECF #5.) Plaintiff never provided the Court any evidence he had served UniCare with the Complaint.

On September 8, 2014, the Court entered an order requiring Plaintiff to show cause why his claims against UniCare should not be dismissed for failure to prosecute. (*See* the "First Show Cause Order," ECF #7.) Plaintiff responded to the First Show Cause Order on September 22, 2014. (*See* ECF #8.) Plaintiff's

counsel explained that due to “human error [his] office neglected to serve Unicare.” (*Id.* at ¶8.)

After the Court vacated the First Show Cause Order (*see* ECF #9), Plaintiff served Unicare with a copy of the Complaint. (*See* Certificate of Service, ECF #12.) Unicare’s answer (or other response) to the Complaint was due on December 10, 2014. (*See* Dkt. #12.) Unicare did not timely respond to the Complaint and, to date, still has not filed a response. Nonetheless, Plaintiff has not moved for an entry of default as to UniCare. Nor has Plaintiff sought to advance his claims against UniCare in any other way.

On February 26, 2015, the Court entered an order again requiring Plaintiff to show cause pursuant to E.D. Mich. Local Rule 41.2 why his claims against UniCare should not be dismissed for failure to prosecute. (*See* the “Second Show Cause Order,” ECF #13.) The Court specifically cautioned Plaintiff that failure to respond to the Second Show Cause Order by March 12, 2015, could result in dismissal of the action. (*See id.*)

The due date for any response to the Second Show Cause Order has now passed. To date, Plaintiff has not filed a response, filed a motion seeking to extend the period for responding to the Second Show Cause Order, nor contacted the Court even informally to seek an extension of time. Under Fed. R. Civ. Proc. 41(b), a federal court may *sua sponte* dismiss a claim for failure to prosecute or

comply with a court order. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-32 (1962); *Steward v. City of Jackson*, 8 Fed. App'x 294, 296 (6th Cir. 2001).

Accordingly, due to Plaintiff's failure to comply with the Second Show Cause Order, and his failure to otherwise prosecute his claims against UniCare, **IT IS HEREBY ORDERED** that Plaintiff's claims against UniCare are **DISMISSED WITHOUT PREJUDICE**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: March 19, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 19, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113